

IC 4-35-5

Chapter 5. Gambling Game License

IC 4-35-5-1

Maximum number of licenses

Sec. 1. The commission may issue a license to a permit holder to conduct gambling games under this article at the permit holder's racetrack. The number of licenses issued under this chapter may not exceed two (2).

As added by P.L.233-2007, SEC.21.

IC 4-35-5-2

Background investigation; approval of proposed slot machine facilities

Sec. 2. (a) Before issuing a license to a person under this chapter, the commission shall subject the person to a background investigation similar to a background investigation required for an applicant for a riverboat owner's license under IC 4-33-6.

(b) Before the commission may issue a license to a person under this chapter, the person must submit to the commission for the commission's approval the physical layout of the person's proposed slot machines and the facilities that will contain the proposed slot machines. The facilities that will contain the slot machines must be connected to the licensee's racetrack facilities.

As added by P.L.233-2007, SEC.21.

IC 4-35-5-2.4

Factors considered in granting licenses

Sec. 2.4. In determining whether to grant a license under this chapter to an applicant, the commission shall consider the following:

- (1) The character, reputation, experience, and financial integrity of the following:
 - (A) The applicant.
 - (B) A person that:
 - (i) directly or indirectly controls the applicant; or
 - (ii) is directly or indirectly controlled by the applicant or by a person that directly or indirectly controls the applicant.
- (2) The facilities or proposed facilities for the conduct of gambling games. The facilities or proposed facilities must include capital expenditures of at least one hundred million dollars (\$100,000,000).
- (3) The prospective total revenue to be collected by the state from the conduct of gambling games.
- (4) The good faith affirmative action plan of each applicant to recruit, train, and upgrade minorities in all employment classifications.
- (5) The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.
- (6) If the applicant has adequate capitalization to provide and

maintain facilities for gambling games for the duration of the license.

(7) The extent to which the applicant exceeds or meets other standards adopted by the commission.

As added by P.L.233-2007, SEC.21.

IC 4-35-5-2.5

Restrictions on issuance

Sec. 2.5. The commission may not issue a license under this chapter to a person if:

- (1) the person has been convicted of a felony under Indiana law, the laws of any other state, or the laws of the United States;
- (2) the person has knowingly or intentionally submitted an application for a license under this chapter that contains false information;
- (3) the person is a member of the commission;
- (4) the person is an officer, a director, or a managerial employee of a person described in subdivision (1) or (2);
- (5) the person employs an individual who:
 - (A) is described in subdivision (1), (2), or (3); and
 - (B) participates in the management or operation of gambling games authorized under this article; or
- (6) a license issued to the person:
 - (A) under this article; or
 - (B) to own or operate gambling facilities in another jurisdiction;has been revoked.

As added by P.L.233-2007, SEC.21.

IC 4-35-5-2.6

Bond

Sec. 2.6. (a) A licensee under this chapter must post a bond with the commission at least sixty (60) days before the commencement of gambling games at the licensee's racetrack.

(b) The bond shall be furnished in:

- (1) cash or negotiable securities;
- (2) a surety bond:
 - (A) with a surety company approved by the commission; and
 - (B) guaranteed by a satisfactory guarantor; or
- (3) an irrevocable letter of credit issued by a banking institution of Indiana acceptable to the commission.

(c) If a bond is furnished in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the commission, but income inures to the benefit of the licensee.

(d) The bond:

- (1) is subject to the approval of the commission;
- (2) must be in an amount that the commission determines will adequately reflect the amount that a local community will expend for infrastructure and other facilities associated with gambling games at the racetrack; and

(3) must be payable to the commission as obligee for use in payment of the licensee's financial obligations to the local community, the state, and other aggrieved parties, as determined by the rules of the commission.

(e) If after a hearing (after at least five (5) days written notice) the commission determines that the amount of a licensee's bond is insufficient, the licensee shall upon written demand of the commission file a new bond.

(f) The commission may require a licensee to file a new bond with a satisfactory surety in the same form and amount if:

(1) liability on the old bond is discharged or reduced by judgment rendered, by payment made, or otherwise; or

(2) in the opinion of the commission any surety on the old bond becomes unsatisfactory.

(g) If a new bond obtained under subsection (e) or (f) is unsatisfactory, the commission shall cancel the licensee's license. If the new bond is satisfactorily furnished, the commission shall release in writing the surety on the old bond from any liability accruing after the effective date of the new bond.

(h) The proceeds of a bond that is in default under this subsection are paid to the commission for the benefit of the local unit in which the racetrack is located.

(i) The total and aggregate liability of the surety on a bond is limited to the amount specified in the bond, and the continuous nature of the bond may in no event be construed as allowing the liability of the surety under a bond to accumulate for each successive approval period during which the bond is in force.

(j) The commission may adopt rules authorizing the release of a bond under this section.

As added by P.L.233-2007, SEC.21.

IC 4-35-5-2.7

Revocation of license

Sec. 2.7. The commission may revoke a license under this chapter if:

(1) the licensee begins regular gambling game operations more than twelve (12) months after receiving the commission's approval of the application for the license; and

(2) the commission determines that the revocation of the license is in the best interests of Indiana.

As added by P.L.233-2007, SEC.21.

IC 4-35-5-2.8

License is not a property right

Sec. 2.8. A license to conduct gambling games:

(1) is a revocable privilege granted by the state; and

(2) is not a property right.

As added by P.L.233-2007, SEC.21.

IC 4-35-5-3

Initial license fee

Sec. 3. (a) A permit holder that is issued a gambling game license under this article must pay to the commission an initial licensing fee of two hundred fifty million dollars (\$250,000,000) as follows:

- (1) One hundred fifty million dollars (\$150,000,000) payable before November 1, 2007.
- (2) One hundred million dollars (\$100,000,000) payable before November 1, 2008.

(b) The commission shall deposit any initial licensing fees collected under this section into the property tax reduction trust fund established by IC 4-35-8-2. Subject to an appropriation by the general assembly, money deposited into the property tax reduction trust fund under this section may be used to provide property tax relief in any manner prescribed by the general assembly.

As added by P.L.233-2007, SEC.21.

IC 4-35-5-4**Expiration of license; renewal**

Sec. 4. (a) An initial gambling game license expires five (5) years after the effective date of the license. Unless the gambling game license is terminated or revoked, the gambling game license may be renewed annually thereafter upon:

- (1) the payment of an annual renewal fee of one hundred dollars (\$100) per slot machine operated by the licensee; and
- (2) a determination by the commission that the licensee satisfies the conditions of this chapter.

Renewal fees paid under this section shall be deposited in the property tax reduction trust fund established by IC 4-35-8-2.

(b) Except as provided in subsection (c), an initial gaming license may not be transferred by the initial licensee for at least five (5) years after the effective date of the license.

(c) A gambling game license may be transferred for any of the following reasons:

- (1) As a result of a bankruptcy, a receivership, or a debt adjustment initiated by or against the initial licensee or the substantial owners of the initial licensee.
- (2) Because:
 - (A) the licensee's license has been cancelled, terminated, or revoked by the commission; or
 - (B) the commission determines that transferring the license is in the best interests of Indiana.
- (3) Because of the death of a substantial owner of the initial licensee.

A transfer permitted under this subsection is subject to section 7 of this chapter.

As added by P.L.233-2007, SEC.21.

IC 4-35-5-4.5**Horse racing required of licensee**

Sec. 4.5. A license issued under this article is null and void if the

licensee fails to:

- (1) obtain or maintain a permit issued under IC 4-31-5 to conduct a pari-mutuel wagering horse racing meeting in Indiana; or
- (2) satisfy the requirements of IC 4-31 concerning the amount of live horse racing that the licensee must conduct at the licensee's racetrack.

As added by P.L.233-2007, SEC.21.

IC 4-35-5-5

Investigations

Sec. 5. (a) The commission shall conduct a complete investigation of each licensee every three (3) years to determine whether the licensee remains in compliance with this article.

(b) Notwithstanding subsection (a), the commission may investigate a licensee at any time the commission determines it is necessary to ensure that the licensee remains in compliance with this article.

As added by P.L.233-2007, SEC.21.

IC 4-35-5-6

Costs of investigations

Sec. 6. A permit holder or other person investigated under this chapter shall bear the cost of the investigation.

As added by P.L.233-2007, SEC.21.

IC 4-35-5-7

Transfer of license; commission approval; fees

Sec. 7. (a) A licensee or any other person must apply for and receive the commission's approval before:

- (1) a gambling game license is:
 - (A) transferred;
 - (B) sold; or
 - (C) purchased; or
- (2) a voting trust agreement or other similar agreement is established with respect to the gambling game license.

(b) The commission shall adopt rules governing the procedure a licensee or other person must follow to take an action under subsection (a). The rules must specify that a person who obtains an ownership interest in a gambling game license must meet the criteria of this article and comply with the rules adopted by the commission. A licensee may transfer a gambling game license only in accordance with this article and the rules adopted by the commission.

(c) A person may not:

- (1) lease;
- (2) hypothecate; or
- (3) borrow or loan money against;

a gambling game license.

(d) Except as provided in subsection (e), a transfer fee is imposed on an initial licensee who sells or otherwise relinquishes a

controlling interest, as determined under the rules of the commission, in a gambling game license. The amount of the fee is fifty million dollars (\$50,000,000).

(e) The fee imposed by subsection (d) does not apply if:

(1) the gambling game license is transferred as a result of an event described in section 4(c) of this chapter; or

(2) the controlling interest in the gambling game license is transferred in a transaction in which no gain or loss is recognized as a result of the transaction in accordance with Section 351 of the Internal Revenue Code.

(f) The transfer of a gambling game license by a person other than the initial licensee to receive the gambling game license is not subject to a transfer fee.

As added by P.L.233-2007, SEC.21.

IC 4-35-5-8

Deposit of fees and recovered investigation costs

Sec. 8. Except as otherwise provided in this chapter, the commission shall transfer:

(1) fees collected under this chapter; and

(2) all investigation costs recovered under this chapter;

to the treasurer of state for deposit in the state general fund.

As added by P.L.233-2007, SEC.21.